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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,635	11/02/2001	Joseph C. Salamone	P02866	8360
23702	7590	07/10/2006		
Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701			EXAMINER PENG, KUO LIANG	
			ART UNIT	PAPER NUMBER

1712

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,635

Applicant(s)

SALAMONE ET AL.

Examiner

Kuo-Liang Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/06 Amendment.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 14-18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13, 27-28 is/are allowed.
- 6) ☒ Claim(s) 7-10, 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Applicants' amendment filed on April 26, 2006 is acknowledged.

Claims 1-6, 14-15 and 16-18 are withdrawn. Claims 11-13 and 27-28 are amended. Now, Claims 7-13 and 19-28 are pending for consideration.

2. The text of those sections of Title 35, U.S. code not included in this action can be found in prior Office Action(s).

3. Applicants should notice that the identifiers of Claims 27 and 28 should be "Currently Amended".

Claim Rejections - 35 USC § 102

4. Rejection of Claims 7-10 and 19-26 under 35 USC 102(b) as being anticipated by Lubbers (US 5 739 245) is maintained because the rejection is adequately set forth in paragraph 5 of Paper No. 020406. Applicant's arguments have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

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For Applicants' argument (page 12, 3rd paragraph), note that Lubbers' polymer does have at least two moieties containing $\text{SiR}^1\text{R}^2\text{R}^3$ groups that can be a siloxy groups because R^1 , R^2 and R^3 can be groups represented by formula V.

For Applicants' argument (page 12, 4th paragraph), the claim language of Claim 7 does **not** require the presence of three-branched polysiloxane segments. Applicants further argue "wherein the terminal groups R_1 linked to the Si atoms are selected from the group consisting of C_{6-36} aryl ether and C_{1-10} alkyl ether (which are not disclosed by Lubbers)". However, Applicants are reminded that R^1 , R^2 and R^3 in Lubbers' $\text{SiR}^1\text{R}^2\text{R}^3$ groups can be groups represented by formula V.

Allowable Subject Matter

5. Claims 11-13 and 27-28 are allowed.

6. The following is an examiner's statement of reasons for allowance:

The present claims are allowable for at least the following reason(s) over the closest reference: Lubbers.

Lubbers does not teach or fairly suggest the specific comonomers set forth in the instant claims.

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval

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(PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp

June 27, 2006


Kuo-Liang Peng
Primary Examiner
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